

AMENDED IN ASSEMBLY APRIL 17, 2002

AMENDED IN ASSEMBLY APRIL 8, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2356

Introduced by Assembly Member Keeley
(Coauthor: Assembly Member Migden)
(Coauthor: Senator Romero)

February 21, 2002

~~An act to add Section 12825.4 to the Food and Agricultural Code, and to add Article 3 (commencing with Section 42250) to Chapter 5 of Part 3 of Division 30 of the Public Resources Code, relating to solid waste.~~ *An act to add Article 3 (commencing with Section 42250) to Chapter 5 of Part 3 of Division 30 of the Public Resources Code, relating to solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2356, as amended, Keeley. Solid waste: compost contamination.

Existing law requires ~~the Department of General Services and the California Integrated Waste Management Board, in consultation with other affected state agencies, to adopt specifications for the purchase of compost by the state.~~ Existing law requires every manufacturer of, importer of, or dealer in any pesticide to obtain a certificate of registration from the Department of Pesticide Regulation before the pesticide is offered for sale in this state. Existing law requires a thorough evaluation before a substance is registered as a pesticide for the first time, and also requires pesticides for which a renewal of registration is sought to be evaluated in a like manner. Existing law requires the Director of Pesticide Regulation to designate and establish

a list of restricted materials and to adopt regulations governing the possession and use of a restricted material for which the director makes a specified finding.

This bill would require the ~~California Environmental Protection Agency~~ department, *in consultation with the California Integrated Waste Management Board*, by July 1, 2003, to convene an advisory ~~body~~ committee, with specified representatives, to advise the ~~agency~~ department on strategies to prevent the contamination of compost by ~~clompyralid and other~~ persistent herbicides and to evaluate the presence of ~~clompyralid and other herbicide residues~~ *persistent herbicides* in compost produced at composting facilities throughout the state, including determining the source of residues found in compost and evaluating the levels of ~~clompyralid or other herbicides~~ *residues* in compost that may cause damage to plants.

The bill would require the department to take specified actions on and after January 1, 2004, if the department finds, based on the evaluation described above, residues of persistent herbicides in compost at levels that may cause damage to vegetation. Upon such a finding, The agency the department would be required, by July 1, 2003, to adopt regulations to impose restrictions on the use of ~~clompyralid and~~ *persistent herbicides* or to require the department to cancel the registration of ~~clompyralid, as necessary the herbicide~~. If the ~~agency~~ department does not take either of those actions, the ~~agency~~ department would be required to state the reasons in writing.

The bill would require the department, by July 1, ~~2003~~ 2004, to determine whether the existing tests required to register ~~clompyralid and other herbicides~~ are adequate and to establish and notify registrants of any further tests that are required as a condition of registration or reregistration. The bill would prohibit the department, after January 1, 2004, from registering or reregistering ~~clompyralid or any other herbicide~~ if it makes a finding, after consultation with the board, regarding the presence of the herbicide in compost at specified levels. *herbicides are adequate to determine whether the herbicide will persist in compost at levels that may cause damage to vegetation.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 12825.4 is added to the Food and~~
2 ~~Agricultural Code, to read:~~

3 ~~12825.4. Notwithstanding Section 12825, the director shall~~
4 ~~not register or reregister clopyralid or any other pesticide that~~
5 ~~causes defoliation or regulates plant growth, if the California~~
6 ~~Environmental Protection Agency requires the registration to be~~
7 ~~canceled pursuant to paragraph (2) of subdivision (c) of Section~~
8 ~~42252 of the Public Resources Code or if the department makes the~~
9 ~~finding specified in subdivision (b) of Section 42253 of the Public~~
10 ~~Resources Code.~~

11 ~~SEC. 2.—~~

12 ~~SECTION 1.~~ Article 3 (commencing with Section 42250) is
13 added to Chapter 5 of Part 3 of Division 30 of the Public Resources
14 Code, to read:

15
16 Article 3. Compost Contamination Prevention

17
18 42250. The Legislature finds and declares all of the
19 following:

20 (a) The California Integrated Waste Management Act of 1989
21 requires all cities and counties to develop source reduction,
22 recycling, and composting programs to achieve a 50-percent
23 reduction in the amount of solid waste ~~sent to landfills and other~~
24 ~~disposed of in California~~ disposal facilities. The composting of
25 yard waste and other organic materials is a principal method used
26 by most local governments to meet the state's diversion
27 requirements. The success of composting programs depends on
28 consumer confidence in the quality and safety of compost and
29 other materials produced from green waste.

30 ~~(b) In 1997, clopyralid, a herbicide used to kill certain~~
31 ~~broadleaf weeds, was registered for use in California. This~~
32 ~~herbicide is often used in lawn applications, including golf~~
33 ~~courses, and some rangeland applications.~~

34 ~~(c) Clopyralid residues in grass, leaves, and other vegetation do~~
35 ~~not break down sufficiently during traditional composting~~
36 ~~processes and persistent residues have been detected in compost~~
37 ~~made available to the public.~~

~~(d) During 2000 and 2001, compost from two composting facilities in the State of Washington, operated by the City of Spokane and Washington State University, caused damage to garden and nursery plants and was subsequently found to contain residues of clopyralid. Research has shown that even low doses of these residues may cause damage to certain plant species.~~

~~(e) Recent tests of compost produced in California have shown that clopyralid is present in compost at levels high enough to cause damage to plants.~~

~~(f) Given the vital role that composting plays in the state's~~

~~(b) During 2000 and 2001, compost produced in the State of Washington caused damage to plants due to residues of persistent herbicides. These herbicides are used in certain lawn and rangeland applications to control broadleaf weeds. Research has shown that even low doses of these herbicide residues may cause damage to certain plant species.~~

~~(c) Recent tests have confirmed the presence of persistent herbicides in compost produced in California at levels high enough to cause damage to plants.~~

~~(d) Given the vital role that composting and other diversion programs play in the state's overall waste reduction strategy and the value of finished compost to residential, commercial, and agricultural users, it is critical that the state prevent the risk of compost contamination by clopyralid and other persistent herbicides.~~

~~(e) the state prevent the contamination of compost, mulch, and other products of organic diversion programs by persistent herbicides.~~

(e) The California Environmental Protection Agency, through the Department of Pesticide Regulation, maintains a program to evaluate pesticides and their proposed uses in order to eliminate from use in the state any pesticide that endangers the agricultural and nonagricultural environment. This program requires a thorough and timely evaluation before initial registration and further evaluation before registration is renewed. The department is authorized to establish performance standards and tests that may be conducted and financed by the party seeking to register the pesticide for use in California, in order to ensure that the pesticide does not endanger the agricultural or nonagricultural environment.

42251. For purposes of this article, the following definitions shall apply:

~~(a) "Agency" means the California Environmental Protection Agency.~~

~~(b) "Clopyralid" means 3,6-dichloro-2-pyridinecarboxylic acid.~~

~~(c)~~

(a) "Board" means the California Integrated Waste Management Board.

(b) "Department" means the Department of Pesticide Regulation.

~~(d)~~

(c) "Herbicide" means a pesticide, as defined in Section 12753 of the Food and Agricultural Code, that ~~causes defoliation, as defined in Section 12752 of the Food and Agricultural Code, or regulates plant growth, as defined in Section 12756 of the Food and Agricultural Code.~~ is intended to kill weeds.

(d) "Persistent herbicide" means a herbicide that contains an active ingredient that persists during conventional composting processes and may result in persistent residues that cause damage to vegetation.

42252. (a) On or before July 1, 2003, the ~~agency~~ department, in consultation with the board, shall do all of the following:

~~(a) Convene an advisory body comprised of representatives of producers and end-users of clopyralid~~

(1) Convene an advisory committee comprised of representatives of producers and users of herbicides, composters, local governments, solid waste enterprises, and the public to advise the agency on strategies to prevent the contamination of compost by clopyralid and other persistent herbicides.

~~(b) In consultation with the advisory board convened pursuant to subdivision (a), evaluate the presence of clopyralid residues and other persistent herbicides in compost produced at composting facilities throughout the state, including determining the source of clopyralid or other residues found in compost, and evaluating the levels of clopyralid or other herbicides in compost that may cause damage to plants.~~

~~(c) Based on the evaluation made pursuant to subdivision (b),~~

(2) In consultation with the advisory committee convened pursuant to paragraph (1), evaluate the presence of persistent

1 *herbicides in compost produced at composting facilities*
2 *throughout the state, including the source of residues found in*
3 *compost and the levels of residues in compost that may cause*
4 *damage to plants.*

5 *(b) On and after January 1, 2004, based on the evaluation*
6 *made pursuant to paragraph (2) of subdivision (a), if the*
7 *department finds the residues of persistent herbicides in compost*
8 *at levels that may cause damage to vegetation, the department*
9 *shall take one of the following actions:*

10 (1) Adopt regulations to impose restrictions on the use of
11 ~~elopyralid or other persistent herbicides to prevent concentrations~~
12 ~~persistent herbicides to prevent the presence of residues in~~
13 ~~compost at levels that may cause damage to plants. These~~
14 ~~restrictions may include requiring the department to designate~~
15 ~~elopyralid or other herbicide as a restricted-use material pursuant~~
16 ~~to Section 14004.5 of the Food and Agricultural Code and to adopt~~
17 ~~regulations pursuant to Sections 14005 and 14006 of the Food and~~
18 ~~Agricultural Code.~~

19 ~~(2) Require the department to cancel the registration of the~~
20 ~~elopyralid or other persistent herbicide. vegetation pursuant to~~
21 ~~Section 12824 of the Food and Agricultural Code.~~

22 (2) *Cancel the registration of a persistent herbicide pursuant to*
23 *Section 12825 of the Food and Agricultural Code.*

24 (3) State in writing the reasons why it is not necessary to take
25 any of the actions provided in paragraph (1) or (2).

26 ~~42253. (a) On or before July 1, 2003, the department shall~~
27 ~~determine whether the existing tests required to register elopyralid~~
28 ~~and any other herbicide are adequate to ensure that the herbicide~~
29 ~~will not be present in compost at levels that may cause damage to~~
30 ~~plants and shall establish, and notify registrants of, any further~~
31 ~~tests that are required as a condition of registration or~~
32 ~~reregistration.~~

33 ~~(b) On and after January 1, 2004, the department shall not~~
34 ~~register or reregister elopyralid or any other herbicide if it finds,~~
35 ~~after consultation with the board, that the herbicide will be present~~
36 ~~in compost at levels that may cause damage to plants.~~
37 ~~amended to read:~~

38 ~~42240. The Department of General Services and the board, in~~
39 ~~consultation with other affected state agencies, shall, on or before~~
40 ~~January 1, 1991, adopt specifications for the purchase of compost~~

1 ~~by the State of California. The specifications shall designate the~~
2 ~~state minimum operating standards and product quality standards.~~
3 ~~The specifications shall be designed to maximize the use of~~
4 ~~compost without jeopardizing the safety and health of the citizens~~
5 ~~of the state, the environment, or the intended compost use.~~

6 *(c) On or before January 1, 2004, the department shall*
7 *determine whether the existing tests required to register an*
8 *herbicide pursuant to Section 12824 of the Food and Agricultural*
9 *Code are adequate to determine whether the herbicide will persist*
10 *in compost at levels that may cause damage to vegetation.*

